

BILL ANALYSIS

Senate Research Center

H.B. 1900
By: Goldman et al. (Huffman)
Jurisprudence
5/17/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Recently, cities across the United States, including in Texas, have taken action to cut police department budgets. Interested parties have noted that these actions leave Texans more vulnerable to crime.

H.B. 1900 enables the criminal justice division of the governor's office to identify an applicable municipality that reduces appropriations to its police department year-over-year, as specified under the bill's provisions, as a defunding municipality and establishing restrictions on these municipalities' powers with regard to annexation, taxation, and charges from a municipality-owned utility, as applicable, until the reductions are reversed, adjusted for inflation.

H.B. 1900 amends current law relating to municipalities that adopt budgets that defund municipal police departments.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the criminal justice division of the office of the governor in SECTION 1.01 (Section 109.006, Local Government Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. DEFUNDING MUNICIPALITY DETERMINATION

SECTION 1.01. Amends Subtitle A, Title 4, Local Government Code, by adding Chapter 109, as follows:

CHAPTER 109. DETERMINATION OF DEFUNDING MUNICIPALITIES

Sec. 109.001. DEFINITION. Defines "division."

Sec. 109.002. APPLICABILITY OF CHAPTER. Provides that this chapter applies only to a municipality with a population of more than 250,000.

Sec. 109.003. DEFUNDING DETERMINATION. Provides that, except as provided by Section 109.004, a defunding municipality is a municipality:

(1) that adopts a budget for a fiscal year that, in comparison to the municipality's preceding fiscal year, reduces the appropriation to the municipality's police department; and

(2) for which the criminal justice division of the office of the governor (division) issues a written determination finding that the municipality has made the reduction described by Subdivision (1).

Sec. 109.0035. INITIAL DETERMINATION. Requires the division, in making a determination of whether a municipality is a defunding municipality under Section 109.003 according to the budget adopted for the first fiscal year beginning on or after September 1, 2021, to compare the appropriation to the municipality's police department

in that budget to the appropriation to that department in the budget of the preceding fiscal year or the second preceding fiscal year, whichever is greater. Provides that this section applies to the budget adopted for the municipality's first fiscal year beginning on or after September 1, 2021, regardless of the date of adoption. Provides that this section expires September 1, 2023.

Sec. 109.004. EXCEPTIONS. (a) Provides that a municipality is not considered to be a defunding municipality under Section 109.003 if:

(1) for a fiscal year in which the municipality adopts a budget that is less than the budget for the preceding fiscal year, the percentage reduction to the appropriation to the municipality's police department does not exceed the percentage reduction to the total budget; or

(2) before the adoption of a budget, the municipality applies for and is granted approval from the division for a reduction to the appropriation to the municipality's police department to account for:

(A) capital expenditures related to law enforcement during the preceding fiscal year;

(B) the municipality's response to a state of disaster declared under Section 418.014 (Declaration of State of Disaster), Government Code; or

(C) another reason approved by the division.

(b) Provides that, for purposes of making a determination of whether a municipality is a defunding municipality under this chapter, a municipality's appropriation to the municipality's police department does not include any grant money received by the municipality during any fiscal year.

Sec. 109.005. TERMINATION OF DEFUNDING DETERMINATION. Provides that a municipality's defunding determination under Section 109.003 continues until the division issues a written determination finding that the municipality has reversed the reduction, adjusted for inflation, described by Section 109.003(1).

Sec. 109.006. DIVISION DUTIES. (a) Requires the division to compute the inflation rate used to make determinations under Section 109.005 each state fiscal year using a price index that accurately reports changes in the purchasing power of the dollar for municipalities in this state and to publish the inflation rate in the Texas Register.

(b) Requires the division to adopt rules establishing the criteria the division uses to approve reductions under Section 109.004(2).

ARTICLE 2. ANNEXATION BY AND DISANNEXATION FROM DEFUNDING MUNICIPALITIES

SECTION 2.01. Amends Subchapter A, Chapter 43, Local Government Code, by adding Section 43.004, as follows:

Sec. 43.004. ANNEXATION BY DEFUNDING MUNICIPALITY PROHIBITED. (a) Defines "defunding municipality."

(b) Prohibits a defunding municipality from annexing an area during the period beginning on the date that the division issues the written determination that the municipality is a defunding municipality and ending on the 10th anniversary of the date on which the division issues a written determination in accordance with Section 109.005 finding that the defunding municipality has reversed the reduction described by Section 109.003(1).

SECTION 2.02. Amends Subchapter G, Chapter 43, Local Government Code, by adding Section 43.1465, as follows:

Sec. 43.1465. DISANNEXATION FROM DEFUNDING MUNICIPALITY. (a) Defines "defunding municipality."

(b) Requires a defunding municipality, on the next uniform election date that occurs after the date on which the division issues a written determination that the municipality is a defunding municipality and the time required by Section 3.005 (Time for Ordering Election), Election Code, to hold a separate election in each area annexed in the preceding 30 years by the defunding municipality on the question of disannexing the area.

(c) Requires the defunding municipality to immediately by ordinance disannex an area for which a majority of the votes received in the election held under Subsection (b) favor disannexation.

(d) Prohibits the defunding municipality, if an area is disannexed under Subsection (c), from attempting to annex the area before the 10th anniversary of the date on which the division issues a written determination in accordance with Section 109.005 finding that the defunding municipality has reversed the reduction described by Section 109.003(1).

(e) Prohibits a defunding municipality holding an election under Subsection (b) from using public funds on informational campaigns relating to the election.

ARTICLE 3. TAX REVENUE AND DEFUNDING MUNICIPALITIES

SECTION 3.01. Amends Chapter 26, Tax Code, by adding Sections 26.0444 and 26.0501, as follows:

Sec. 26.0444. TAX RATE ADJUSTMENT FOR DEFUNDING MUNICIPALITY. (a) Defines "defunding municipality" and "municipal public safety expenditure adjustment."

(b) Provides that the no-new-revenue maintenance and operations rate for a defunding municipality is decreased by the rate computed according to a certain formula.

(c) Requires a defunding municipality to provide a notice of the decrease in the no-new-revenue maintenance and operations rate provided by this section in the information published under Section 26.04(e) (relating to requiring the designated officer or employee of a taxing unit to post certain information regarding no-new revenue and voter-approval tax rates on the taxing unit's Internet website) and, as applicable, in the notice prescribed by Section 26.06 (Notice, Hearing, and Vote on Tax Increase) or 26.061 (Notice of Meeting to Vote on Proposed Tax Rate That Does Not Exceed Lower of No-New-Revenue or Voter-Approval Tax Rate).

(d) Provides that, for purposes of Subsection (a)(2) (relating to defining "municipal public safety expenditure adjustment"), the amount of money appropriated for public safety and the amount of money spent by the municipality for public safety does not include any grant money received by the municipality during any fiscal year.

Sec. 26.0501. LIMITATION ON TAX RATE OF DEFUNDING MUNICIPALITY. (a) Defines "defunding municipality."

(b) Prohibits the governing body of a defunding municipality, notwithstanding any other provision of Chapter 26 (Assessment) or other law, from adopting a tax

rate for the current tax year that exceeds the lesser of the defunding municipality's no-new-revenue tax rate or voter-approval tax rate for that tax year.

(b-1) Prohibits the governing body of the defunding municipality, notwithstanding Subsection (b), if a municipality is determined to be a defunding municipality according to the budget adopted by the municipality for the first fiscal year beginning on or after September 1, 2021, from adopting a tax rate for the current year that exceeds the least of the defunding municipality's no-new-revenue tax rate or voter-approval tax rate for that tax year, the preceding tax year, or the second preceding tax year. Provides that this subsection expires September 1, 2023.

(c) Provides that, for purposes of making the calculation required under Section 26.013 (Unused Increment Rate), in a tax year in which a municipality is a defunding municipality, the difference between the municipality's actual tax rate and voter-approval tax rate is considered to be zero.

SECTION 3.02. Amends Subchapter F, Chapter 321, Tax Code, by adding Section 321.5025, as follows:

Sec. 321.5025. DISTRIBUTION OF TRUST FUNDS TO DEFUNDING MUNICIPALITY. (a) Defines "defunding municipality."

(b) Prohibits the Comptroller of Public Accounts of the State of Texas (comptroller), before July 1 of each state fiscal year, from sending to a defunding municipality its share of the taxes collected by the comptroller under Chapter 321 (Municipal Sales and Use Tax Act) during the state fiscal year, notwithstanding Section 321.502 (Distribution of Trust Funds). Requires the comptroller, before sending the defunding municipality its share of the taxes, to deduct the amount reported to the comptroller for the defunding municipality under Subsection (c) and credit that deducted amount to the general revenue fund. Authorizes money credited to the general revenue fund under this subsection to be appropriated only to the Department of Public Safety.

(c) Requires the division, not later than August 1 of each state fiscal year, to report to the comptroller for each defunding municipality the amount of money the state spent in that state fiscal year to provide law enforcement services in that defunding municipality.

ARTICLE 4. RETIREMENT FUNDING REQUIREMENTS FOR DEFUNDING MUNICIPALITIES

SECTION 4.01. Amends Chapter 810, Government Code, by adding Section 810.006, as follows:

Sec. 810.006. MINIMUM RETIREMENT FUNDING REQUIREMENTS FOR DEFUNDING MUNICIPALITIES. (a) Defines "defunding municipality" and "public retirement system."

(b) Provides that this section applies only to a municipality that is an employer of active members of a public retirement system administering a defined benefit plan and is a defunding municipality.

(c) Requires a municipality, notwithstanding any other law and as soon as practicable after the date the division issues a written determination under Section 109.003(2), Local Government Code, with respect to the municipality, for the purpose of funding retirement benefits to increase municipal contributions to a public retirement system in which its employees participate as members in a manner that ensures that the total amount the municipality and members contribute to the system for the fiscal year on which the determination is based is

not less than the total amount the municipality and members of the system contributed to the system for the fiscal year immediately preceding the fiscal year on which the determination is based.

(d) Requires a municipality subject to this section to increase contributions in the manner provided by Subsection (c) for each fiscal year for which the municipality is considered a defunding municipality.

ARTICLE 5. MUNICIPALLY OWNED UTILITIES IN DEFUNDING MUNICIPALITIES

SECTION 5.01. Amends Subchapter B, Chapter 33, Utilities Code, by adding Section 33.0211, as follows:

Sec. 33.0211. RATES AND FEES CHARGED BY CERTAIN MUNICIPALLY OWNED UTILITIES. (a) Provides that this section applies only to a municipally owned utility that is located in a municipality that is considered to be a defunding municipality under Chapter 109, Local Government Code.

(b) Prohibits the governing body of a municipally owned utility from charging a customer:

(1) at a rate higher than the rate the customer was charged or would have been charged on January 1 of the year that the municipality was determined to be a defunding municipality;

(2) any customer fees in amounts higher than the customer fees the customer was charged or would have been charged on January 1 of the year that the municipality was determined to be a defunding municipality; or

(3) any types of customer fees that the customer was not charged or would not have been charged on January 1 of the year that the municipality was determined to be a defunding municipality.

ARTICLE 6. TRANSITION PROVISIONS; EFFECTIVE DATE

SECTION 6.01. Provides that Chapter 109, Local Government Code, as added by this Act, applies only to a budget adopted for a fiscal year that begins on or after the effective date of this Act, regardless of the date of adoption.

SECTION 6.02. Provides that Sections 26.0444 and 26.0501, Tax Code, as added by this Act, apply beginning with the 2021 tax year, except that Section 26.0444(c), Tax Code, as added by this Act, does not apply for the 2021 tax year.

SECTION 6.03. Provides that Section 321.5025, Tax Code, as added by this Act, applies only to a distribution of municipal sales and use tax revenue to a municipality in a state fiscal year that begins on or after the effective date of this Act.

SECTION 6.04. (a) Provides that Section 33.0211, Utilities Code, as added by this Act, applies only to a proceeding for the establishment of rates for which the governing body of a municipally owned utility has not issued a final order or decision before the effective date of this Act.

(b) Provides that a proceeding for which the governing body of a municipally owned utility has issued a final order or decision before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 6.05. Effective date: September 1, 2021.